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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

GABRIEL SEALE,

Defendant and Appellant.

D063913

(Super. Ct. No. SCD246369)

APPEAL from a judgment of the Superior Court of San Diego County, Dwayne K Moring, Judge. Affirmed.

Appellate Defenders, Inc. and Lynelle K. Hee, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Gabriel Seale entered into a plea agreement in which he plead guilty to selling a substance in lieu of a controlled narcotic substance (Health & Saf. Code, § 11355. The remaining count and allegation were dismissed.

At the time of the entry of the plea the court advised Seale it would strongly consider suspending a three-year prison sentence on the condition that Seale successfully complete a drug treatment program.

Seale was granted probation and the court stayed a 180-day sentence pending completion of a drug treatment program.

Seale filed a timely notice of appeal, but did not obtain a certificate of probable cause.

Counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*) raising possible, but not arguable issues. We offered Seale the opportunity to file his own brief on appeal, but he has not responded.

STATEMENT OF FACTS

According to the change of plea form, Seale aided and abetted the sale of a substance in lieu of a controlled substance.

DISCUSSION

As we have previously noted, appellate counsel has filed a brief indicating she is unable to identify any argument for reversal and asks this court to review the record for error as mandated by *Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders, supra*, 386 U.S. 738, the brief identifies the possible, but not arguable issues:

1. Whether Seale was properly advised of his rights at the time of his guilty plea and whether he voluntarily waived those rights?
2. Does the record reflect a factual basis for the guilty plea?

We have reviewed the entire record in accordance with *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 386 U.S. 738, and have not found any reasonably arguable appellate issues. Competent counsel has represented Seale on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

McDONALD, J.

IRION, J.